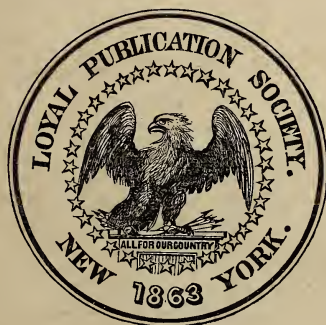


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NULLIFICATION
AND
COMPROMISE;
A RETROSPECTIVE VIEW.

BY JOHN MASON WILLIAMS.



NEW YORK, OCTOBER, 1863.

New York:
FRANCIS & LOUTREL, STATIONERS & PRINTERS,
No. 45 Maiden Lane.
1863.

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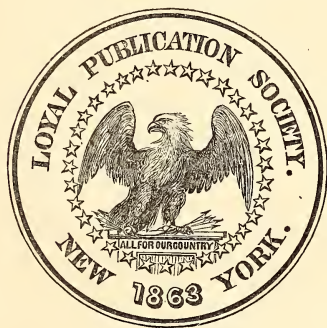
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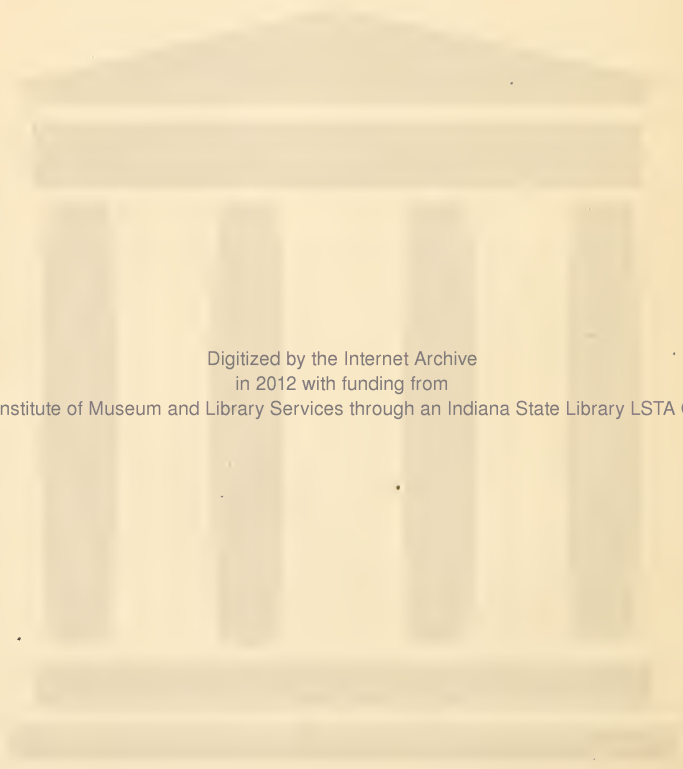
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## NOTE.

The author of this review wrote, in December, 1860, some brief notices of the nullification controversy, which were published, at the time, in a newspaper of quite limited circulation. Should any one who has read and now remembers those notices, read this review, the fact that both were written by the same person will account for any coincidences of thought and expression which may be discovered in the two publications.

In the marginal references in the ensuing pages, the volume, of which the title is placed at the head of this review, is cited simply as "State Papers." "Bent. Abr." is intended as an abbreviation of "Benton's Abridgment of Debates in Congress."



# RETROSPECTIVE VIEW.

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STATE PAPERS OF NULLIFICATION, including the public Acts of the Convention of the People of South Carolina assembled at Columbia, November 19, 1832, and March 11, 1833; the Proclamation of the President of the United States, and the proceedings of the several State Legislatures which have acted on the subject. Collected and published by order of the General Court of Massachusetts under the direction of the Committee on the Library. Boston: Dutton & Wentworth, Printers to the State. 1834. 8vo. pp. 381.

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A GENERATION has passed away and another has taken its place since the chivalry of South Carolina assumed a hostile attitude towards the government of the United States, and undertook, in the plenitude of an assumed absolute and paramount sovereignty, to nullify certain laws of the national government, and forcibly to resist their execution within the limits of her territory. This was an important event in our political history. It was one of the outbursts of that "irrepressible conflict" between freedom and slavery about which so much has been said and written, and which is now raging with accumulated intensity. Believing as we do, that a great mistake was committed by our government on that occasion, and that we are now suffering the bitter consequences of that mistake, it may be useful to review the history of the nullification controversy, and to learn wisdom from the lessons which it inculcates. Many active politicians of the present day were then either unborn or too young to feel an interest, and to take a part in the discussions and measures to which that controversy gave rise. Others, of a more advanced age, may have forgotten them in the lapse of intermediate years, and may not now have within their reach, the necessary documents to refresh their memories. As "history is philosophy teach-

ing by example," it is well occasionally to pause and listen to its teachings.

The cause, or pretext, of the insurrectionary movement of South Carolina, in 1832, was the alleged unconstitutionality of the Acts of Congress imposing duties on imports in a manner, and with the intent to protect American manufactures against foreign competition,—a policy which had been pursued from the very commencement of our national government. At the first session of the first Congress—quite a number of the members of which had been members of the Convention that framed the Constitution—the subject was introduced as soon as it could be after the organization of the body. Mr. Madison, one of the most intelligent, efficient and vigilant of those members, who had a perfect knowledge and recollection of the intended meaning and true construction of the provisions of that instrument, introduced a resolution declaring that certain duties should be laid on importations of merchandise. By the scheme then proposed, specific duties were to be imposed on certain enumerated articles, the avowed purpose of which was the protection of American manufactures against foreign competition. Marshall, in his life of Washington says, that on the necessity of an immediate revenue, no division of sentiment could exist, and on the protective policy an equal degree of unanimity seemed to prevail.\* The second Act passed by that Congress—the second Act approved and signed by President Washington, (who was also the President of the Constitutional Convention,) after his inauguration, as if to establish an authoritative, cotemporaneous construction of the Constitution on that subject, bore on its front an express declaration that one of its objects was the encouragement and protection of American manufactures. For more than thirty years thereafter, the same policy, under all administrations, was steadily pursued as the settled policy of the government.

In 1808 the State of South Carolina declared, by a Legislative Act, that the establishment and encouragement of domestic manufactures is conducive to the interest of a State

\* Vol. 5, p. 195.

and the means of disposing to advantage of the surplus productions of the agriculturist; and not only expedient, but politic in rendering us independent of foreign nations. So, in 1816, Mr. Calhoun, and his colleagues in Congress from South Carolina, were strenuous advocates for the establishment of the protective tariff of that year. But unfortunately Andrew Jackson and John C. Calhoun became rival candidates for the presidency of the United States. The star of Jackson obtained the ascendant, and Calhoun's lofty aspirations were blasted. Soon after that time a most bitter personal, as well as political animosity sprung up between the two rivals, and a knot of politicians in South Carolina, with Mr. Calhoun as their leader, made the wonderful discovery that this long-established system of our national policy was a rank usurpation of power and a palpable violation of the Constitution,—a violation so palpable, unjust and tyrannical, that it would not only justify, but that it required the interposition of the State to resist by force, and even by a dissolution of the Union, if necessary, the usurpation. Accordingly the chivalry buckled on their armor and sallied forth, like the brave Knight of La Mancha, to deliver the nation from an oppression which it had so long, though patiently, and even unconsciously endured. The result was nullification in 1832.

There appears to be a general—an almost universal—popular impression that President Jackson, by his prompt and energetic measures, effectually “put down” nullification, and crushed the incipient rebellion of South Carolina in 1833. This is an erroneous impression. To “put down,” as the phrase is used in this connexion, is to *suppress*, to crush by superior physical or moral force. The example given by Johnson is, “as to put down a party.” This is also the popular sense; and in this sense nullification was not put down by President Jackson, or any one else, in 1833, or any other time. Substantially all that it demanded was surrendered to it by Congress, on the urgent recommendation of President Jackson himself. This may probably be thought a very bold and rash assertion, but we make it without misgiving or hesitation, because we

propose to establish its truth by the incontestible evidence of official and other cotemporaneous documents. We do this, not for the purpose of extinguishing a single ray of the halo that properly surrounds the memory of Jackson, or of removing from the chaplet of his fame a single leaf that belongs to it, but to vindicate the truth of history, which is of greater public importance than the reputation of an individual, and to urge a vigorous and persevering discharge of the duties which that historic truth inculcates in our present national emergency.

On the 24th of November, 1832, the people of South Carolina, in a paroxysm of excitement, passed, in convention, "An Ordinance to nullify certain Acts of the Congress of the United States purporting to be laws laying duties and imposts on the importation of foreign commodities." The ordinance declares and ordains "that the several Acts and parts of Acts of the Congress of the United States purporting to be laws for the imposing of duties and imposts on foreign commodities," especially several Acts therein named by their titles, "are null, void, and no law, nor binding upon the State, its officers, or citizens." It further declared that it should not be lawful for any of the constituted authorities of the State or of the United States to enforce the payment of duties imposed by the Acts of Congress thus nullified; and made it the duty of the Legislature to adopt such measures and pass such Acts as may be necessary to give full effect to the ordinance, and to prevent the enforcement, and arrest the operation, of those acts of Congress, within the limits of the State, after the first day of February then next.\* The Legislature obeyed the injunction, as will appear in the sequel.

The preamble to the ordinance declares that "the Congress of the United States, by various Acts purporting to be acts laying duties and imposts on foreign imports, but in reality intended for the protection of domestic manufactures," &c., "hath exceeded its just powers under the Constitution, which confers on it no authority to afford such

\* State Papers, p. 28.

protection, and hath violated the true meaning and intent of the Constitution," &c.

The Convention then issued an address "to the people of South Carolina," and another address "to the people of Massachusetts, Virginia," &c., naming each of the other States then composing the Union as an independent sovereignty. This fact has some significance, as it entirely ignores our nationality, and it can hardly be supposed that this form of address was merely accidental. But let that pass. In this address, the Convention state very explicitly and distinctly the *gravamen* of their complaint,—what South Carolina had a right to require, and what, in her generous condescension and chivalrous magnanimity, she was willing to accept as an atonement for the alleged injuries she had, with such exemplary patience, endured. We state the terms of the compromise proposed by the convention in the language of the address.

"We believe," says the address, "that upon every just and equitable principle of taxation, the whole list of protected articles should be imported free of all duty; and that the revenue derived from import duties should be raised exclusively from the unprotected articles, or that whenever a duty is imposed upon protected articles, an excise duty of the same rate should be imposed upon all similar articles manufactured in the United States." "But we are willing to make a large offering to preserve the Union, and with a distinct declaration that it is a concession on our part, we will consent that the same rate of duty may be imposed upon the protected articles that shall be imposed upon the unprotected, *provided*, that no more revenue be raised than is necessary to meet the demands of the government for Constitutional purposes." "Our resolve is fixed and unalterable, that a protecting tariff shall be no longer enforced within the limits of South Carolina."\* Here we have the nullifier's *ultimatum*. The only alternative they present is, in substance, submission to their demands, or war and disunion.

The Convention then ordered that copies of the ordinance

\* State Papers, &c., pp. 69, 71.

with the report thereon, and of the addresses to the people of South Carolina and of the other States should be transmitted to the President of the United States, to be by him submitted to Congress, and also to the Governors of the several States for the information of their respective Legislatures.\* The Convention adjourned on the 24th of November, 1832, to meet again at such time as should be appointed by its President.† Thus ended the first session of this traitorous Convention.

Before proceeding to a review of the measures adopted by the national government on this occasion, it may be well to notice briefly the acts of the Legislatures of the several States in relation to this nascent rebellion of South Carolina. We will notice them in the order in which they are named in the address of the Convention. In this order Massachusetts stands first. The Legislature of that State referred the consideration of the subject to a joint committee of both branches, of which A. H. Everett, a brother of Edward Everett, was chairman. The committee, on the 15th of February, 1833, reported a series of resolves, preceded by an elaborate discussion of the principles involved in the nullification controversy. The report was accepted, and the resolves passed and approved by Levi Lincoln, then Governor of the State, March 11, 1833. The resolves declared, among other things, that the President was bound, by the express provisions of the Constitution, and by his oath of office, to take care that the laws are faithfully executed; that the proclamation issued by him, the 10th November, 1832, is a judicious, well-timed and salutary measure; that they approve the determination therein expressed to enforce the laws; and that they are prepared to support him and the other constituted authorities of the Union, in all necessary, suitable, constitutional and legal measures which they may be called upon to adopt for that purpose.‡

The State of Virginia was less emphatic in her condemnation. She appointed an envoy or agent to proceed to

\* State Papers, p. 318.

† Id. 320.

‡ State Papers, p. 111, *et sequentes*.

South Carolina to induce a suspension of the execution of the ordinance of nullification, and passed among others, a resolve declaring in substance that the State rights doctrines of the Virginia resolutions of 1798 do not sanction the proceedings of South Carolina, indicated in her ordinance.\*

A committee of the Legislature of New York, to whom the address and proceedings of South Carolina were referred, made a long and able report, concluding with several resolves, which were adopted. The resolves declared that the Legislature approves the measures the President has adopted and recommended to sustain the authority and execute the laws of the United States; and that the government and people of the State will cordially co-operate with him in the exercise of all the means which may be necessary and proper to secure those objects.†

The Pennsylvania Legislature resolved that every resistance to the collection of duties imposed upon importations by law, is an offence against the Constitution and laws of the United States; and that the offenders are liable to prosecution and punishment; that in enforcing by all constitutional means the laws for imposing and collecting duties upon imported goods, and all other Acts of Congress, and in bringing to punishment all persons who, under any pretence, may offer resistance to them, Pennsylvania will aid and assist the government of the United States by all the means in her power.‡

North Carolina resolved that the doctrine of nullification as avowed by the State of South Carolina, and lately promulgated in an ordinance, is revolutionary in its character, subversive of the constitution of the United States, and leads to a dissolution of the Union.§

Some of the resolves of the State of Maryland are so appropriate to the present times, and so applicable to the secessionists of that State, that we cannot forbear to give their substance. They declare that the government of the United States possesses all the powers necessary for the purposes for which it was instituted; that it is irreconcila-

\* State Papers, p. 197.

† Id. 158.

‡ Id. p. 169.

§ 201.

ble with the objects and purposes for which the Constitution was adopted, to suppose that it contains in itself the principles of its own destruction, or has failed to endue the government created by it with the essential power of self-preservation; that it is not in the power of any State to annul an Act of the general Government as void or unconstitutional; and that if any State should attempt to withdraw from the Union, it is the right and duty of the general Government to protect itself and the other States from the fatal consequences of any such attempt.\*

One of the resolves of the Legislature of Connecticut declares that "this Assembly do most fully approve the essential principles and the determination avowed by the President, in his proclamation of the 10th of December, 1832, and that this Assembly and the people of this State will cordially and faithfully co-operate with him in carrying the same into effect."†

The Legislature of New Hampshire resolved that "the sentiments contained in the proclamation of the President of the United States, dated December 10, 1832, meet with the entire approbation of this Legislature."‡

In Maine, the Legislature resolved that "the patriotic spirit and tone of the President's recent proclamation relating to the extraordinary proceedings of South Carolina, meet our warmest approbation."§

The New Jersey Legislature resolved that "we deprecate the acts and proceedings of our brethren of South Carolina, as opposed to the fundamental principles upon which the government of these United States is based; as violating the spirit and meaning of the Federal Constitution, and tending to rend asunder those ties of common interest and fraternal regard which are our pride, our glory and our strength; that the principles contained in the President's proclamation meet our entire approbation, and that we will sustain the Chief Magistrate in the Constitutional enforcement of those principles."||

A resolve of the Legislature of Georgia declares, "We

\* State Papers, p. 289 *et sequentes*.

† 285.

‡ Id. 101.

§ Id. 108.

|| Id. 105.

abhor the doctrine of nullification as neither a peaceful nor a Constitutional remedy, but, on the contrary, as tending to civil commotion and disunion; and while we deplore the rash and revolutionary measures recently adopted by a Convention of the people of South Carolina, we deem it a paramount duty to warn our fellow-citizens against the danger of adopting her mischievous policy.”\*

Delaware, small in territory, but then strong in patriotism, did not lag behind her sister States in her devotion to the Union, the Constitution and the enforcement of the laws. She resolved that the people of the United States owe to the National Government an allegiance which cannot be withdrawn either by individuals or masses of individuals, without its consent; that the Convention of South Carolina can have no other or greater right to annul or resist the laws of Congress than any assemblage of an equal number of individuals in any part of the United States; nor can any assemblage, however large, have any other or greater right for such purpose than belongs to each individual citizen, considered as a Constitutional measure; that we cordially respond to the sentiments on this subject contained in the able proclamation of the President of the United States, and shall be, at all times, prepared to support the Government in the exercise of its Constitutional rights and discharge of its Constitutional duties.†

Ohio resolved that the doctrine that a State has the power to nullify a law of the General Government is revolutionary in its character, and is, in its nature, calculated to overthrow the great temple of American liberty. Such a course cannot absolve that allegiance which the people of this Union owe to the supremacy of the laws.‡

The State of Indiana declared that we deeply deplore the political heresies and threatened disorganization recently promulgated by a portion of our brethren of South Carolina; that the Constitutional doctrines advanced, and views of policy embraced in the President's proclamation on the present difficulties in South Carolina, the patriotic spirit pervading that able document, and the prompt and

\* State Papers, p. 274.

† Id. 190.

‡ Id. 106.

decided manner in which he has rebuked the pernicious doctrines and unjustifiable course recently adopted by a portion of the citizens of that State, command our entire approbation.\*

The Legislature of Mississippi resolved that the doctrine of nullification is contrary to the letter and spirit of the Constitution, and in direct conflict with the welfare, safety and independence of every State in the Union; and that we will, with heart and hand, sustain the President in the full exercise of his legitimate powers to maintain unsullied and unimpaired, the honor, the independence and the integrity of the Union.†

The State of Illinois resolved, that should the anti-republican doctrine of nullification be persisted in, and treason rear its polluted form within the bosom of our prosperous, patriotic and peaceful Republic, we do hereby instruct our Senators in Congress, and request our Representatives to unite in the most speedy and vigorous measures on the part of the General Government, for the preservation of the peace, integrity and honor of the Union. And we solemnly pledge the faith of our State in support of the administration of the laws and Constitution of our beloved country.‡

The Alabama Legislature resolved that nullification is unsound in theory and dangerous in practice; that as a remedy it is unconstitutional and essentially revolutionary, leading to anarchy and civil discord, and finally to the dissolution of the Union; that we earnestly entreat the people of this State to avoid those dangerous and unconstitutional remedies proposed for their imitation and adoption, no matter how specious their exterior, which may lead to bloodshed and disunion, and will certainly end in anarchy and civil discord.§

We have now presented a brief synopsis of the resolves of the Legislatures of seventeen of the twenty-three States which, exclusive of South Carolina, then composed the Union. All these States, with perhaps the exception of Virginia, denounce, with more or less emphasis and severity, the nullifying proceedings of South Carolina, and approve

\* State Papers, p. 214.    † Id., 231.    ‡ Id., 380.    § Id., 222.

the proclamation of the President. We have not at hand the means of ascertaining what measures, if any, were adopted by the Legislatures of the other six States; but, when named, no one will doubt that the hearts of their people, even if their voices were silent, echoed the patriotic sentiments of the seventeen. They were Louisiana, whose sugar manufacturing interests were protected by the tariff, and whose chief city had been saved from capture and pillage by the strategy and heroism of the President; Missouri, a State which could gain nothing by nullification; Tennessee, the home of the President—a State which never faltered in fealty to him; Kentucky, the land of Henry Clay, who had, up to that time, been a Boanerges among the advocates of the protective system; Rhode Island, a manufacturing State, whose interests and principles were in favor of the system; and Vermont, always faithful to the Constitution and the Union. We may therefore safely assume that not one of the twenty-three States to which South Carolina addressed her labored justification, harbored a thought or uttered a whisper of approbation of her course. Indeed she complained, in some of her State Papers, that she was deserted by many to whom she had a right to look for succor and support. Slave States and Free States, Democratic States and Whig States, Southern States and Northern States, tariff States and anti-tariff States joined, “with one accord,” in pronouncing against her an unhesitating sentence of condemnation. One would suppose that a decent respect for this solemn “verdict of her peers” would have induced the refractory State to pause in her mad career, and acquiesce, though it might be reluctantly, in the decision.

These proceedings of the State Legislatures have no direct bearing on the main question which we proposed to discuss in this review,—the question as to the manner in which, and the influences by which the nullification controversy was compromised; but they are interesting contemporaneous documents relating to the subject, and we shall have occasion to refer to them again in another connection.

The ordinance of nullification reached President Jackson

early in December, and with his usual impulsive promptness, he issued his celebrated proclamation on the 10th of the same month. It was undoubtedly written by Edward Livingston, an able statesman, a profound jurist, an elegant writer, and this production is worthy of his fame. It is noble and patriotic in sentiment, powerful in language, and irresistible in argument. The greater part of it is as appropriate to our national exigencies now as it was then. It is too long for insertion here, and no extracts can give an adequate idea of its excellence. It contained an elaborate exposition of the President's views of the "Constitution and laws applicable to the measures adopted by the convention of South Carolina, and the reasons they have put forth to sustain them; declaring the course which duty would require him to pursue, and appealing to the understanding and patriotism of the people, to warn them of the consequences which must inevitably result from an observance of the dictates of the Convention." It passed in review the whole array of the pretexts and sophistries of the Convention. They fell before its majestic and triumphal march like grasshoppers beneath the tread of the elephant.

In the course of his argument, the President states his understanding of the issue tendered by South Carolina. "These," he says, "are the alternatives that are presented by the Convention. A repeal of all acts for raising revenue, leaving the government without the means of support, or an acquiescence in the dissolution of our Union by the secession of one of its members."\*

The issue thus tendered is distinctly joined by the President. "This, then," he declares, "is the position in which we stand. A small majority of the citizens of one State have elected delegates to the State convention. That convention has ordained that all the revenue laws of the United States must be repealed, or that they are no longer a member of the Union. The Governor of that State has recommended to the Legislature the raising an army to carry the secession into effect." "It is the intent of this instrument to proclaim that the duty imposed on me by the Constitur-

\* State Papers, p. 90.

tion to 'take care that the laws be faithfully executed,' shall in performed." "The laws of the United States must be executed. I have no discretionary power on the subject—my duty is emphatically pronounced in the Constitution."

From the decree of the Convention the President appeals, in tones of paternal tenderness, mingled with solemn remonstrance and minatory prophesy, to the people of South Carolina. "There is yet time," he says, "to show that the descendants of the Pinckneys, the Sumters, the Rutledges, and of the thousand other names which adorn the pages of your revolutionary history, will not abandon that Union, to support which so many of them fought, and bled, and died. I adjure you, as you honor their memory, as you love the cause of freedom to which they dedicated their lives, as you prize the peace of your country, the lives of its best citizens and your own fair fame, to retrace your steps. Snatch from the archives of your State the disorganizing edict of its Convention." "Tell its members that, compared with disunion, all other evils are light, because that brings with it an accumulation of all,—declare that you will never take the field unless the star-spangled flag of your country shall float over you—that you will not be stigmatized when dead, and dishonored and scorned while you live, as the authors of the first attack on the Constitution of your country! *Its destroyers you cannot be. You may disturb its peace—you may interrupt the course of its prosperity—you may cloud its reputation for stability, but its tranquility will be restored, its prosperity will return, and the stain upon its national character will be transferred and remain an eternal blot on the memory of those who caused the disorder.*"

We thus behold the State of South Carolina on the one side, and the United States on the other, standing face to face in antagonistic and defiant attitudes,—South Carolina in hostile array, with her nullifying ordinance, her palmetto flag and blue cockades, awaiting for what she called an assault on her liberty, independence and sovereignty ;—and the United States, with the Constitution and laws of the Union in one hand, and in the other a sword to compel the rebellious State to obedience.

Did South Carolina cower under the weight of this proclamation—this club of Hercules—thus raised to smite her? Did she retreat from her perilous position? Not an inch. She abated not “one jot or tittle” of her requirements. She retracted nothing. On the contrary, she continued to hurl back her defiance with an apparent courage and firmness worthy of a better cause. She solicited no suspension of action on the part of the National Government. She made no overtures for negotiation. She stood on her assumed uncontrollable sovereignty, and would listen to no proposition short of a surrender of the whole matter in dispute—the total abandonment of the protective system. The Governor of the State issued a counter-proclamation, in which he openly defied the authority of the Executive of the Union. The Legislature passed a series of resolutions denying the constitutional authority of the President to issue his proclamation, charging him with giving utterance therein to his private feelings and retaliations, an unprecedented blending in a State paper of official and individual character, and an undisguised indulgence of personal hostility. The concluding resolve is, “That while this Legislature has witnessed with sorrow such a relaxation of the spirit of our institutions, that a President of the United States dares venture upon this high-handed measure, it regards with indignation, the menaces which are directed against it, and the concentration of a standing army on our borders; that the State will repel force by force and, relying on the blessing of God, will maintain its liberty at all hazards.\* The Legislature also passed a number of acts in preparation for the impending conflict, one of which was, “An Act to provide for the security and protection of the people of the State of South Carolina.” This Act authorizes the Governor to resist any attempt of the National Government to coerce the State into submission to the nullified Acts of Congress; and for that purpose to accept the services of such volunteers, and to call into service such portions of the militia as may be required. It also provides

\* 12 Benton's Debates, p. 13.

for the organization of the militia and for the purchase of arms, ordnance and ammunition.\*

The President, in a special message to Congress, of 11th January, 1833, thus states the dilemma in which the National Government was then placed: "If these measures cannot be defeated, the Constitution must be considered as incompetent to its own defence; the supremacy of the laws is at an end, and the rights and liberties of the citizens can no longer receive protection from the Government of the Union." In this emergency, what course did the Government pursue? It adopted a compromising, temporizing policy, on the recommendation of the same President; which, without extinguishing the fire, would merely postpone the eruption of the volcano to a then future, but now present time,—the evil time on which we have fallen,—a policy too much like that of a more recent "functionary" who paltered and compromised with known traitors to keep their parricidal swords in their scabbards until the expiration of his own term of office.

There could not be a more favorable opportunity than the one then presented, to settle effectually the question of supremacy between the Constitution and laws of the Union and those of the individual States by "wager of battle" which South Carolina thus tendered, and which seemed to have been joined by the President. The State stood alone. Not one of her sister States approved her course. The President's popularity was almost unbounded. General Scott was then in the full vigor of his manhood, and every throb of his heart was faithful and loyal, as it still is, to the Union. A detachment of military and naval forces had been sent to Charleston. A single vigorous blow would, in all human probability, not only have "put down" this act of rebellious nullification, but would have crushed, at once and forever, the spirit that prompted it. That blow was not struck.

Though the President's proclamation was so generally approved, there were, at the time, many misgivings and apprehensions that its threats would not be executed, and

\* 12 Benton's Debates, pp. 16-17.

that the vigorous measures which it seemed to promise would be evaded or defeated. Many wise and sagacious statesmen who warmly approved its principles and spirit, and who were skilled to "discern the signs of the times," expressed their anxious forebodings on this subject. We quote, as an example, part of a letter from the late Judge Story, to a friend, dated 22d December, 1832: "The President's proclamation is excellent, and contains the true principles of the Constitution; but will he stand to it? Will he not surrender all to Virginia, who abhors all these principles? Will he not yield all which the South dictates, and sacrifice the North? Will not the Constitution be, as in times past, made for the benefit, and feelings, and interests of the South? I confess I have little belief that the South will be satisfied with any other course except that which surrenders up all the important interests of the non-slaveholding States. What pledge is there that they will not be surrendered?"\* It was well known that there were malign influences in operation which justified these forebodings. Many strong motives existed to render the proclamation inoperative and to save South Carolina from the castigation which her rebellious arrogance richly merited. Some of the other slaveholding States were almost as bitterly opposed to the protective system as South Carolina. Though they condemned her revolutionary measures as unconstitutional, they were very willing to embrace any opportunity to abolish the system by legal means. Some of the non-slaveholding States also were opposed to the system; and many influential politicians were then, as now, in favor of concession and "peace at any price." Henry Clay, who had previously been an eloquent advocate of protection, lacked the necessary firmness to meet the emergency, and took the ground of concession. The President was himself unfriendly to the protective system, though he considered it Constitutional. He probably found, too, that in carrying out the purposes indicated in his proclamation, he would be obliged to rely quite as much on the aid of his general political adversaries as on his political partisans.

\* Life and Letters of Joseph Story. Vol. ii., p. 115.

At least, he was very willing that Congress should take on itself a large share of the responsibility, and relieve him from a portion of the troubles and anxieties which the execution of those purposes involved. He was himself a slaveholder, a native of South Carolina and an adopted citizen of the slaveholding State of Tennessee. Under all these circumstances, it is not very strange that his sympathies should, to some extent, be with the South, while, at the same time, his indignation was roused by the threatened resistance of South Carolina to his official and personal authority.

Congress met on the 3d December, 1832, and we now come to the proof of our assertion that, substantially, all that nullification demanded was surrendered by Congress on the recommendation of Jackson himself. For this purpose we call him as our witness. "Though dead he yet speaketh" in his official state papers. His annual message to Congress was dated December 4th, 1832. He expatiates, at some length, on various matters touching our foreign and domestic affairs and relations, and then adverts to the subject of finance and revenue. He states, in substance, that on the 1st of January (then next), the whole public debt will be reduced to about seven millions of dollars, and that the means in the Treasury are ample to extinguish the whole within the year 1833. Among other suggestions, he says that the final removal of this great burden from our resources presents an occasion for further reduction of the revenue, and adds: "The subject is earnestly recommended to the consideration of Congress. The soundest maxims of policy," he proceeds to say, "require that the expenditure should be limited to what, by an economical administration, shall be necessary to an efficient public service." "*I recommend that the whole scheme of duties be reduced to the revenue standard.*" It will be here noted that the language of these recommendations is, almost literally, that of the Convention of South Carolina in stating their claims. The President then adverts to the protective system, and says that our experience "makes it doubtful whether the advantages of this system are not counterbalanced by many evils,

and whether it does not beget, in the minds of a large portion of our countrymen, a spirit of discontent and jealousy dangerous to the stability of the Union." "A large portion of the people in one section of the Republic declares it not only inexpedient," but "unconstitutional and unjust."

We have abridged this part of the message by omitting much of the verbiage and circumlocution usually found in public documents. We have endeavored to give a condensed but fair representation of the President's recommendations relating to the reduction of the revenue and the abandonment of the protective system, and we believe no one who reads them will fail to perceive their full and strict conformity with the demands of the nullifying Convention. The message may be found in vol. xii. of Benton's *Abridgement of the Debates in Congress*, page 3, *et sequentes*. See pages 6 and 7.

It might be sufficient to close this review by merely stating that Congress passed an Act embodying substantially the provisions recommended by the President and demanded by the South Carolina Convention. But certain facts and incidents occurred in the progress and final passage of the Act in Congress, and in the proceedings of the Convention on its acceptance, which are essential to the full and fair understanding of the history of the rise, progress and triumph of nullification, and which may be worth pondering in their relations to our present condition. We proceed, therefore, at the hazard of becoming tedious, to notice some of those facts and incidents.

In the House of Representatives, that part of the President's message which relates to the revision of the tariff was referred to the "Committee of Ways and Means," of which Mr. Verplanck, of New York, was Chairman. On the 27th of December, the Committee reported a bill to reduce and otherwise alter the duties on imports. But as this bill was afterwards amended by striking out all but the enacting clause, and substituting *verbatim* a bill which was introduced in the Senate by Mr. Clay, it is unnecessary to give a summary of Mr. Verplanck's bill.

On the 12th of February, 1833, Henry Clay, who had

been for many years a strenuous and eloquent advocate of the protective system, introduced his compromise bill. Its leading provisions were, a periodical annual reduction of one-tenth of the present duties for seven years, after which all the remaining duties above 20 per cent. on their value should be equally divided into two parts, one part to be struck off at the end of one year thereafter, and the other half at the end of another year, so that at the end of nine years, all duties should be reduced to 20 per cent. on the value, with a list of free articles; and no more revenue to be raised than necessary for the economical support of the Government. On the first introduction of this bill, Mr. Calhoun expressed his approval of its general principles, and promised to give it his support. He believed that if the present difficulties were to be adjusted, they must be adjusted on the principles embraced in this bill, of fixing *ad valorem* duties, except in few cases. He further stated that he would not vote for the prostration of the manufacturing interest. A very large capital had been invested in manufactures, and he would not give his vote to suddenly withdraw those duties by which that capital was sustained in the channel in which it had been directed.\* It will appear, by the subsequent proceedings of the Convention, that these views of Mr. Calhoun were sanctioned by the Convention.

When Mr. Clay's bill was taken up for consideration in the Senate, he proposed an amendment, that after the period prescribed by the bill, all the duties should be assessed on a valuation made at the port in which the goods are first imported. This was opposed by Mr. Calhoun, who declared that, according to his present impressions, the objections were insurmountable, and unless removed he should be obliged to vote against the whole bill. A side issue was thus raised which came near defeating the bill, but when the vote on the amendment was taken, finding that the bill could not pass without the amendment, and being desirous to save it, Mr. Calhoun and his friends voted in favor of the amendment as well as of the bill.

\* Bent. Abr., vol. i., p. 84.

In the course of the debates in the Senate on the merits of the bill, Mr. Robbins, of Rhode Island, made an able speech against it, from which we quote a few warning and prophetic sentences: "It is said that the dissolution of the Union is threatened, and that this bill is necessary to hold the States together." "This very argument is what alarms me most as to the stability and efficiency of the Union. We have seen a State arm herself with this power" (of nullifying the laws of the National Government), "and put herself in an attitude to exert it. That State has neither disarmed herself nor renounced the power. Now we offer to her this bill to induce her, not to renounce this power, but to refrain from its exercise at present. Is not this a practical recognition of this power?" "If this precedent is to govern, where is the security for the stability of the Union? I cannot see. This bill, however, I suppose, is to pass." "If it does pass, it may smother the fire now raging in one place, but I fear it will preserve the embers that one day will consume the fabric of the Union."

In the House of Representatives the principal debate was on the bill introduced by Mr. Verplanck, but as the two bills were similar in principle, the arguments were generally applicable to both. We make some brief extracts from a few of the speeches to show the light in which the introduction and passage of the bill was viewed by some of the most enlightened and patriotic statesmen of that day.

Mr. Choate, of Massachusetts: "It is impossible for me to doubt the motive or object of this proceeding." "Why not avow it at once and put yourselves there upon the country? South Carolina has nullified your tariffs; and therefore you repeal them! You suppress nullification and take a statesmanlike pledge and guaranty against any future recurrence by any other State of that happy expedient, by just promptly granting, the first time you have a chance to act on it, all it demands." "There is but one ground on which you can account for the vote you give for this bill, and it is, that South Carolina has nullified every existing tariff."\*

\* Bent. Abr., vol. xii., p. 144.

Mr. Root, of New York, who advocated the bill, admitted that its origination, in the present session, was unquestionably owing to the organized opposition offered by one portion of the country against the collection of revenue under the tariff laws of 1828 and 1832. Unquestionably this bill before the house was introduced for the purposes recommended by the President, with a view to conciliate, if possible, our Southern brethren, and to induce them to stay their hand in opposing the laws.\*

Mr. Appleton, of Massachusetts, at the close of an able financial argument against the bill, asks: "Does the South really wish the continuance of the Union?" "It may well be doubted whether certain leading politicians have not formed bright visions of a Southern Confederacy. This would seem to be the only rational ground for accounting for the movements in South Carolina. A Southern Confederacy, in which South Carolina should be the central State, and Charleston the Commercial Emporium, may present some temptations for individual ambition."†

John Quincy Adams, of Massachusetts, considered that the question of nullification "was of such a nature that it ought to be settled. It ought to be known whether there are any measures by which a State could defeat the laws of the Union. If there were, and the laws might be set aside at pleasure, we must seek for some other form of government to live under." Mr. Adams, also, in his minority report, as a member of the "Committee on Manufactures," says: "The ground assumed by the South Carolina Convention for usurping the sovereign and limitless power of the people of that State to dictate the laws of the Union, and prostrate the legislative, executive and judicial authority of the United States, is as destitute of foundation as the forms and substance of their proceedings are arrogant, overbearing, tyrannical and oppressive." He declares his belief that "one particle of compromise with that usurped power, or of concession to its pretensions, would be a heavy calamity to the people of the whole Union, and to none more than to the people of South Carolina themselves ;

\* Benton's Abr., vol. xii. p. 152.

† Id., p. 161.

that such concession would be a dereliction by Congress of their highest duties to their country, and directly lead to the final and irretrievable dissolution of the Union.”\*

Mr. Stewart, of Pennsylvania, after alluding to the numerous concessions which the North had made to appease the clamors of the South, adds: “They now demand that the protective principle shall be abandoned, or they will dissolve the Union.” “Grant this, and next we must elect a President South of the Potomac, or we shall have another nullifying ordinance—more threats of civil war and bloodshed; and where is this system of concession to end? It will end only when all political power is surrendered to the South, and the people of the Northern and Middle States are reduced to a condition more miserable and degraded than that of the Southern slave. It is time to stop and tell these gentlemen plainly that we will go no further, and to play out their game of nullification if they dare.”†

These specimens are sufficient for our present purpose, but I cannot forbear to quote a few passages from Mr. Webster’s great speech in the Senate, in reply to Mr. Calhoun, in the debate on the revenue collection bill, commonly called the “Force Bill.” While penning his words we seem to hear his solemn voice from the tomb, repeating, in thrilling tones, his denunciations, warnings and prophetic intuitions: “If the friends of nullification should be able to propagate their opinions, and give them practical effect, they would, in my judgment, prove themselves the most skilful ‘architects of ruin,’ the most effectual extinguishers of high-raised expectations, the greatest blasters of human hopes which any age has produced. They would stand up to proclaim, in tones which would pierce the ears of half the human race, that the last great experiment of representative Government had failed. They would send forth sounds, at the hearing of which, the doctrine of the divine right of kings would feel, even in its grave, a returning sensation of vitality and resuscitation. Millions of eyes of those who now feed their inherent love of liberty on the success of the American example, would turn away from

\* Quincy’s Life of Adams, p. 218.

† Bent. Abr., p. 179.

our dismemberment, and find no place on earth whereon to rest their gratified sight. Amidst the incantations and orgies of nullification, secession, disunion and revolution, would be celebrated the funeral rites of constitutional and republican liberty." "I shall exert every faculty I possess in aiding to prevent the Constitution from being nullified, destroyed or impaired. And even should I see it fall, I will still, with a voice feeble, perhaps, but earnest as ever issued from human lips, and with fidelity and zeal which nothing shall extinguish, call on the PEOPLE to come to its rescue."\*

Yes! troubled spirit, the People have come to the rescue, and the Constitution and Union are safe! Rest in peace!

We now turn to the consideration of the last act of this sad drama,—the subsequent proceedings of South Carolina. The act of humiliation on the part of the National Government is consummated. The Congress of the United States, at the earnest recommendation of the President, have concurred with the convention of South Carolina, in nullifying the same obnoxious Acts, not only in their application to South Carolina but to all the States and Territories of the Union. In what temper and spirit did South Carolina receive this oblation?

The Convention assembled to act on this subject on the 11th of March, 1833. The Compromise Act was referred to a select committee of twenty-one members, who made a report in a strain of complacent gratulations on the success which had rewarded their efforts, as well as on the courage, magnanimity and condescension of South Carolina. She had stood unmoved, firmly resolved to maintain her liberties, or perish in the conflict. The result has been a beneficial modification of the tariff of 1832, even before it took effect. Though the reduction provided for in the bill was not, either in amount or time, such as she had a right to require, yet she always had been willing to make large sacrifices to the peace and harmony of the Union. In a great struggle for principles, she would disdain to cavil about a

\* Bent. Abr., vol. xii., p. 110.

small amount of duties, or a few years more or less in effecting the adjustment. The new bill is recommended to her acceptance because it establishes a system of *ad valorem* duties, and the entire abandonment of specific duties and *minimums*, and provides that the duties shall be eventually brought down to a revenue standard, and no more money shall be raised than shall be necessary to an economical administration of the government. The convention accordingly passed an ordinance declaring that their ordinance of November 24th, nullifying certain acts of Congress, should thenceforth be deemed and held to have no force or effect.\* But though the first ordinance of nullification was thus nullified, the spirit that prompted it was not quieted, nor were its turbulent machinations even suspended.

In a message of the President sent in to Congress, subsequent to his annual message, he recommended the passage of a law to confer on the Executive more ample and larger powers to enforce the collection of duties in case of resistance. An Act, commonly called the "Force Bill," was accordingly passed, simultaneously with the passage of the compromise bill. The Convention referred this "Force Bill" also to a committee, who made a report which was adopted by the convention on the 18th March, 1833. In the course of their report the committee break forth into a song of triumphant and chivalric jubilation, in strains almost equal to those of Deborah when she and Barak had discomfited the hosts of Sisera. Listen! "The firmness of the State seems, at length, in some degree to have *triumphed*. But let it be recollected that the moment of triumph is commonly one of danger. Let it be kept in mind that this is not a contest ended, but a contest not more than begun . . . . Let it be carried on firmly, steadily, without passion and without faltering. If the vigilance of the State should relax; if it should cease to raise up barriers against the head of usurpation, which threatens to overwhelm us, the torrent will break loose and sweep our liberties along with it. Let every man consider this his own peculiar business. If liberty be saved, everything is saved. If liberty be lost, every-

\* State Papers, p. 352.

thing is lost." "It is incumbent on South Carolina, unsupported as she is, to take care that no Federal authority, unauthorized by our Federal compact, shall be exercised within the limits of the State."\* For the purpose of providing that the "Force Bill" shall never have operation within the limits of the State, the Committee recommended, and the Convention passed an ordinance declaring that the act of Congress, commonly called the "Force Bill," is, and shall be deemed "null and void within the limits of this State," and making it the duty of the Legislature to adopt such measures as may be necessary to prevent the enforcement thereof, and to inflict proper penalties on any person who shall do any act in execution or enforcement of the same within the limits of the State.†

THIS ORDINANCE NEVER WAS REPEALED, REVOKED OR MODIFIED!

And now, we would respectfully ask, Was nullification crushed—suppressed—"put down" by President Jackson or any one else, in 1833, or at any other time?

We have now given a sketch of the public history of the rise, progress and triumph of nullification in 1832–3. We have verified the material facts by reference to official and other cotemporaneous documents of unquestionable authenticity. The secret history of the intrigues, negotiations, threats, promises, aspirations, hopes, fears and other influences which governed the immediate actors in the drama, do not come within the scope of our present purpose. Those who feel an inclination to investigate those matters, so far as relates to the origin, progress and final passage of the compromise bill, may obtain "a peep behind the curtain" by consulting Benton's "Thirty Years' View," &c., vol. i., p. 340 *et seq.* We will quote a single paragraph, premising that the author was a devoted personal friend and political partizan of President Jackson:

"The act," he says, "of 1833, called a 'compromise,' was a breach of all the rules and all the principles of legislation—concocted out of doors, managed by politicians dominated by an outside interest—kept a secret—passed by a

\* State Papers, p. 372.

† Id. p. 372.

majority pledged to its support, and pledged against any amendment except from its managers,—and issuing from the conjunction of rival politicians who had lately and long been in the most violent state of legislative as well as political antagonism. It comprised every title necessary to stamp a vicious and reprehensible act—bad in the matter—foul in the manner—full of abuse—and carried through upon the terrors of some, the interests of others, the political calculations of many, and the dupery of more; and all upon a plea which was an outrage upon representative government—upon the actual government, and upon the people of the States.”

Mr. Benton makes no allusion to the fact that his friend the President, earnestly recommended such a measure, but simply remarks that he “felt a positive relief in being spared the dire necessity of enforcing the laws by the sword and by criminal prosecution.”

In reading the addresses and proceedings of the South Carolina Convention, it is amusing, though sad, to see how the lordlings of the assembly prate about the blessings of liberty and their love for it. “Inestimable are the blessings of the well-regulated freedom which permits MAN to direct his labors and his enterprise to the pursuit or branch of industry for which he conceives nature has qualified him, unmolested by avarice enthroned in power!” And this is the language of the slaveholders of South Carolina? they utter it with an apparently cool unconsciousness that a large majority of the MEN of that State were, at that moment, the bound victims of their own “avarice enthroned in power.” Again: “We would infinitely prefer that the territory of the State should be the cemetery of freemen than the habitation of slaves!” At that moment the territory of the State was the habitation of 327,028 slaves,—of upwards of 60,000 more slaves than freemen! What a glaring specimen of infatuation! What a melancholy manifestation of the blindness of men to their own inconsistencies! Their love of freedom was not a generous, philanthropic love which would extend its blessings to universal humanity, but a selfish love of power under the assumed

name of liberty—a liberty to enslave, oppress and rule their fellow-men.

We have no disposition to intimate or suspect that the President was hypocritical or insincere in his professions of a determination to preserve the Union. We believe that if Congress had failed to pass the compromise bill, or if South Carolina had rejected it and persevered in her insurrectionary course, he would have executed his threatened measures of coercion and suppressed the insurrection by force. Our objection is, that almost immediately after issuing his noble proclamation, he yielded unconditionally, in his message to Congress, to the insolent, clamorous and arrogant demands of a traitorous foe, and thus, by a dereliction of his duty, transferred from his own hands and those of that generation, to his and their successors of the present generation, the task of vindicating the national supremacy. When prompt and energetic measures were required to crush not only the *act* but the *spirit* of insubordination and incipient rebellion, he urged upon Congress the adoption of a cringing and temporizing policy, which gave to the rebellious hosts all the fruits of a victory without even the hazards of a conflict. He knew, at that time,—no one knew better than he—that pacification thus purchased was a mere truce—a temporary suspension of hostilities. He knew that a dissolution of the Union was their ulterior object, the clamor about the tariff a mere pretext, and that slavery would be their next pretext. He prophetically announced this at the time; and that prophetic annunciation is now history. Under these circumstances it was wrong—morally and politically wrong—to adopt the temporizing, compromising policy which sacrifices future permanent good to present and transient ease and convenience. No generation has a moral right to relieve itself from present troubles by casting them, with new, accumulated and more complicated embarrassments, as an inherited curse, on a succeeding one. Each has enough of its own difficulties to encounter, and each should grapple with them and vanquish them as it best may. It is painful to dwell on the failings, mistakes and shortcomings of our fathers, but it is well to

heed them as warnings. We are now suffering in agony and sweat, and blood, and tears, the consequences of their mistake. May we, by our courage, perseverance and sacrifices save our children from similar calamities, and our Union from disintegration. May we thoroughly exorcise the foul spirit of treason from our land, give a death-blow to slavery—that moral and political upas whose poisonous exhalations are spreading desolation and threatening ruin, and thus transmit to our children an unencumbered inheritance of freedom, peace, prosperity and glory!

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